

NOTICE OF PUBLIC AUCTION
AUCTION SALE OF LEASE BY SEALED BID

Notice is hereby given that the Department of Land and Natural Resources (DLNR), Division of Boating and Ocean Recreation (DOBOR), State of Hawaii, will conduct a public auction by sealed bid for the lease of a certain property comprised of fast land parcels and an easement located at Heeia-Kea Small Boat Harbor, Heeia, Koolaupoko, Kaneohe, Oahu, Hawaii.

A. Tentative Timeline and Place of Auction.

Publication of Public Auction and Bid Packet Pick up: The Star-Advertiser, October 30, 31 and November 1, 2010, and on the DOBOR Internet web page located at www.hawaii.gov/dlnr/dbor/bor1110lgl.htm.

Notice of Intention to Bid, Application and Qualifications Questionnaire: All prospective bidders must submit the Notice of Intention to Bid, with the required Qualification Questionnaire, Application and all required information to the DLNR, Division of Boating and Ocean Recreation Conference Room, 333 Queen Street, Suite 300, Honolulu, Hawaii 96813, **no later than 4:00 P.M. on Thursday, November 18, 2010.**

Notification of Disqualification and Eligibility of Prospective Bidders: Only Bidders who previously submitted a completed Notice of Intention to Bid, Application and Qualification Questionnaire with all required information, that are in compliance with the instructions to bidders shall be notified as to qualification to proceed.

Delivery Deadline for Sealed Bids and Announcement of Successful Bidder: Sealed bids shall be submitted to the Division of Boating and Ocean Recreation at 333 Queen Street, Suite 300, Honolulu, Hawaii, 96813 **no later than 3:00 P.M. Thursday, December 2, 2010.** Bids will be opened at 10:00 a.m. on Friday, December 3 in the Division of Boating and Ocean Recreation, 333 Queen Street Suite 300, Honolulu, Hawaii, 96813. An announcement will be made soon thereafter. Said auction may be cancelled, postponed or continued from time to time by public announcement to that effect by the Chairperson or the Chairperson's representative at the time and place appointed for the auction.

B. General Description of the Property.

The three parcels of land, improvements, and a nonexclusive pipeline easement covered by this lease, generally situated and located at Heeia-Kea Boat Small Boat Harbor, Heeia, Koolaupoko, Kaneohe, Oahu, Hawaii, being the site presently operated by the Deli Corporation (Revocable Permit B-07-31), 46-499 Kamehameha Hwy and further identified within TMK: 4-6-006: Por 067, are as follows:

Parcel 1: Containing an area of approximately 980 square feet;

Parcel 2: Containing an area of approximately 1,020 square feet;

Parcel 3: Containing an area of approximately 2,244 square feet.

Easement: A common, non-exclusive pipeline easement of 970 sq. ft. is provided, for subsurface pipelines, together with a right-of-way for the installation, repair, maintenance and replacement thereof.

C. Term and Use.

The term of the lease shall be thirty-five (35) years from the execution of the lease. The parcels and the easement shall be used for the following purposes only as described above: Parcel 1, for petroleum storage tanks, support facilities and a waste oil containment system; Parcel 2, for dockside fueling operations, fueling equipment and a sewage pump-out system; Parcel 3, for operations of a marine convenience store, over the counter food service, ship chandlery, and marine related services as approved by the Department; non-exclusive easement for subsurface pipelines for the installation, repair, maintenance and replacement of said subsurface pipelines.

D. Rental.

1. MINIMUM UPSET ANNUAL RENTAL: TWENTY FOUR THOUSAND DOLLARS (\$24, 000.00).

2. Minimum Annual Base Rental and Percentage Rent:

A. Annual Rent. The greater of the minimum annual base rent or annual percentage rent, if any.

B. Minimum Annual Base Rent.

1. Minimum annual base rent for the first five (5) years shall be: (The minimum successful bid amount) per annum.

2. Fixed increases in minimum annual base rent.

a. Minimum annual base rent for years six (6) through ten (10) shall be equal to the fifth year's minimum annual base rent multiplied by 1.05, and shall be in the amount of (\$TBD) per annum.

b. Minimum annual base rent for years eleven (11) through fifteen (15) shall be equal to the tenth year's minimum annual base rent multiplied by 1.05, and shall be in the amount (\$TBD) per annum.

3. Minimum annual base rent shall be payable in advance, without notice or demand, in equal monthly installments on the first of each and every month.

C. Percentage Rent.

1. Percentage rent shall be based on the annual gross revenues from all commercial uses of the subject property.
2. Percentage rent for the first fifteen (15) years shall be equal to five percent (5.0%) of the annual gross revenues from the premises.
3. The gross revenues shall include all revenues generated from, on, or within the premises, including the gross revenues of any sublessee.
4. Percentage rent shall be payable quarterly in arrears, without notice or demand, no later than thirty (30) days after March 31, June 30, September 30, December 31 of each year, provided, however, that the Chairperson may extend the deadline for payment of percentage rents for good cause. Each payment of the percentage rent shall be accompanied by a written statement certified as correct by the lessee, or person duly authorized by lessee, showing in accurate detail the amount of gross receipts, by category, for payment period. Lessor may, in Lessor's sole discretion, specify the format and details required in the Lessee's written statement of gross receipts.

- D. For the first (1st) year, the annual base rent is waived; however the lessee shall pay, on a quarterly basis as described above the gross percentage fees of five percent (5%) collected during the first year.

E. Improvements, Use and Operation.

The bidder is responsible to inspect the premises, and be familiar with all aspects of the property, including but not limited to the condition of all structures, equipment, operation, and level of commerce for this type of operation. The bidder's manager shall have a minimum of three (3) years experience or more as an owner or manager, and shall be proficient in the operation of a Marine fueling facility or similar business consisting of a fuel sales, convenience store, and food service business. The successful bidder shall be required to construct, install and operate all fueling equipment, vessel sewage pump-out equipment, and maintain all improvements on the subject property. The successful bidder may purchase the existing fuel equipment directly from its present owner, The Deli Corporation. The existing equipment includes the fuel storage tanks, pipelines, pumps and other fuel related equipment. Should the successful bidder choose not to purchase such equipment, and install its own, then the present Permittee, the Deli Corporation, shall have sixty (60) days to remove all equipment. The successful bidder (lessee) shall within six months of removal of the existing equipment, complete the construction and installation of the fueling equipment in accordance with plans and specifications submitted by the Lessee to and approved in writing by the Chairperson and in full compliance with all applicable laws, ordinances,

rules and regulations. During closure of fuel dock, the lessee may use a fuel truck to continue continuity of service, during the replacement period. At no time shall the lessee fail to provide fuel service. In addition, the bidder shall be responsible for the opening/closing, servicing of supplies, and cleaning of the restroom adjacent to Parcel 1.

F. Determination of Successful Bidder:

All bidders must be in full compliance with the auction procedures, terms and conditions.

Sealed Bids will be opened at 10:00 A.M. on Friday, December 3, 2010 in the Division of Boating and Ocean Recreation Conference Room, 333 Queen Street, Suite 300, Honolulu, Hawaii, 96813. Bids shall be greater than upset annual rental stated herein and the qualified bidder making the highest bid equal to or in excess of the upset minimum annual rental shall be considered the successful bidder. Should a bid be equal to another competitive bidder, the bid with the earlier time stamp shall prevail. The State reserves the right to cancel the public auction or reject any and all bids.

G. Notice of Intention to Bid and Qualification Questionnaire:

Any interested bidder shall be required to submit its Notice of Intention to Bid and Qualification Questionnaire to the Division of Boating and Ocean Recreation, 333 Queen Street Suite 300, Honolulu, Hawaii 96813, **no later than 4:00 P.M. on or before Thursday, November 18, 2010**, together with appropriate clearances from the State of Hawaii and the City and County of Honolulu showing that the person is not in arrears in the payment of taxes, rents or other obligations to said political entities.

H. Auction Procedure and Opening of Sealed Bids:

Auction procedures and terms and conditions are contained in the Instructions to Bidders, the Lease and the Notice of Intention to Bid. In case of conflict with this Notice, the terms and provisions of the aforesaid documents shall be controlling. Copies of said documents may be obtained at the Division of Boating and Ocean Recreation, 333 Queen Street, Suite 300, Honolulu, Hawaii, 96813 for a nonrefundable fee of \$10.00.

/s/ Paul J. Conry
for Laura H. Thielen,
Chairperson and Director

ADVERTISEMENT: The Star-Advertiser 10/30, 10/31, 11/1/2010